

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

IN RE: CINCINNATI POLICING : Case No. C-1-99-3170
: District Judge Susan J. Dlott
: Magistrate Judge Michael Merz
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**AFFIDAVIT OF JOHN C. GREINER IN
SUPPORT OF AMICUS CURIAE BRIEF
OF THE CINCINNATI ENQUIRER**

Affiant, after being duly cautioned and sworn, states as follows:

1. My name is John C. Greiner. I am an attorney admitted to practice in the State of Ohio.

I was admitted to practice in 1983. I represent the Cincinnati Enquirer in this matter.

2. On October 10, 2003, I submitted a letter to Magistrate Judge Michael R. Merz requesting that he vacate the order prohibiting disclosure of the traffic stop study for 45 days from October 6, 2003. A true and accurate copy of the letter is attached hereto as Exhibit 1.

3. On October 10, 2003, I received a letter from Kenneth L. Lawson, counsel for the American Civil Liberties Union. The letter discussed Mr. Lawson's comments to Gregory Korte, a reporter for the Cincinnati Enquirer, and reiterated his request that the report not be disseminated to the public until it is fully analyzed. A true and accurate copy of Mr. Lawson's letter is attached hereto as Exhibit 2.

FURTHER AFFIANT SAYETH NAUGHT.

John C. Greiner

STATE OF OHIO)
)
COUNTY OF HAMILTON) ss:

Sworn to and subscribed before me, a Notary Public, this 14th of October, 2003.



357678.1

PAMELA W. LANE
Notary Public, State of Ohio
My Commission Expires 02-13-05

Notary Public

FILE COPY



**Graydon
Head &
Ritchey
LLP**

Attorneys at Law

John C. Greiner
Direct Dial: (513) 629-2734
E-Mail: jgreiner@graydon.com

October 10, 2003

VIA FACSIMILE (937) 512-1650

The Honorable Michael R. Merz
United States District Court
Southern District of Ohio
200 West Second Street
Dayton, OH 45402

Dear Judge Merz:

This firm represents The Cincinnati Enquirer. We have reviewed your October 6, 2003 order that prohibits disclosure of a traffic stop study for 45 days from October 6. The traffic stop study was authorized by Cincinnati City Ordinance 88-2001, and it is a public record pursuant to Ohio Revised Code 149.43.

It is our understanding, based on comments from an attorney representing the class, that he sought the order in an effort to keep the information from the public until after the coming Cincinnati Council election. It is not in the best interest of the public to withhold public information and keep voters in the dark. Whether intended or otherwise, this order has that effect. Rather, the public interest requires disclosure of the information. Time is obviously of the essence.

The order prohibiting disclosure of the study is an unconstitutional infringement on the right of the public and press to access this public information. In addition, the stated purpose of the order – to allow the parties to the Collaborative Agreement to “frame their positions and recommit to positive, constructive discourse on these sensitive matters” – may be accomplished by far less restrictive methods. The blanket gag order is overly broad.

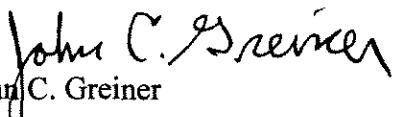
The public’s right to know cannot be put “on hold.” Because every day that passes with this order in place is a continuing violation we ask that you immediately vacate the order. If you do not take immediate action, the Enquirer will be forced to pursue its remedies in the appropriate forum.

The Honorable Michael R. Merz
October 10, 2003
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Thank you for your attention to this matter.

Respectfully,

GRAYDON HEAD & RITCHIEY LLP


John C. Greiner

JCG/pl

c: *The Honorable Susan J. Dlott*
Counsel to Parties to Collaborative Agreement
Mr. Thomas Callinan

KENNETH L. LAWSON & ASSOCIATES, L.P.A.

ATTORNEYS AT LAW

Kenneth L. Lawson
kenneth@kennethlawson.com

The Dominion Building • 808 Elm Street, Suite 100
Cincinnati, Ohio 45202
www.kennethlawson.com

Office (513) 345-5000
Fax (513) 345-5005

Ayanna E. Love
ayanna@kennethlawson.com

October 10, 2003

VIA FACSIMILE: (937) 512-1650

The Honorable Michael R. Merz
United States District Court
Southern District of Ohio
200 W. Second Street
Dayton, OH 45402

Dear Judge Merz:

I received a copy of the correspondence sent to you regarding comments attributed to me regarding why Plaintiffs' sought this Court order. My comments were taken out of context. The reason that we sought the protective order is because the report is not final and at the time was not in writing. Again, our intent is not to keep the information from anyone prior to election but to allow the parties to analyze the data to prepare our constituents for a responsible debate about the issues, as we do with the monitor's report.

It is my further understanding that one specific council member wanted to take this incomplete information and utilize it in a way to further his campaign. According to a survey, the number one concern of all citizens in this city is race relations. It is imperative to us who represent the black community that no further violence and anger take place with information that is being disseminated that has not been fully analyzed.

Very truly yours,

Kenneth L. Lawson

KLL/br

Cc: Honorable Susan Dlott
John C. Greiner, Esq.
Counsel to Parties for Collaborative Agreement

